

It is the Examiner's position that with respect to each of the constituents, Applicant must elect a specific  $R^1$  group, a specific integer for  $p$ , a specific integer for  $m$ , etc.

Applicant respectfully submits that that requirement is inconsistent with MPEP 808.01(a). For example, with respect to selecting a specified  $R^1$  group, and assuming Applicant elected that  $R^1$  would be  $C_{10}$ , clearly if the Examiner found the exact formula in the prior art except for the fact that in the prior art formula  $R^1$  was  $C_{12}$ , the Examiner would undoubtedly take the position that the prior art formula, at the very least, rendered Applicant's claim obvious. As pointed out in 808.01(a), "Election of species should not be required between claimed species that are considered clearly unpatentable (obvious) over each other." Without Applicant admitting that in the above scenario Applicant's claim would be obvious, Applicant respectfully submits that the election requirement is contrary to the quoted wording of MPEP 808.01.

Applicant also respectfully calls the Examiner's attention to pending U.S. Application Serial No. 09/890,696 wherein virtually the exact same formula that now appears in pending Claim 1 was presented and there was no election of species requirement made.

Furthermore, it is respectfully submitted that the Examiner's proposed election requirement would require more extensive searching since the Examiner would be required to find prior art that disclosed an exact formula as shown in Claim 1 of the pending application wherein each of the groupings was specifically identified. Applicant respectfully submits that a search of that detail is an undue burden.

Appl. No.: 10/523,243  
Response Dated: December 6, 2007  
Reply to Office Action of November 5, 2007

With respect to the restriction requirement, Applicant elects the claims of Group 1, i.e., Claims 1-12 and 25-26 and respectfully requests that the Examiner withdraw the election of species requirement.

Respectfully submitted,



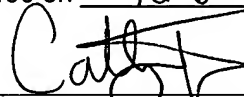
C. James Bushman  
Reg. No. 24,810

Date: December 6, 2007

BROWNING BUSHMAN P.C.  
5718 Westheimer, Suite 1800  
Houston, Texas 77057-5771  
Tel.: (713) 266-5593  
Fax: (713) 266-5169

**CERTIFICATE OF MAILING**

I certify that this document is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on 12-6-07.



Cathy Hayes